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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,809	05/24/2001	Gerard Jay Bellasalma	60137-026	2588
26096	7590	07/18/2006	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			SORKIN, DAVID L	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,809

Applicant(s)

BELLASALMA ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,14,16-22 and 26-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,5-12,14,16-22 and 26-37 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters:

Drawings

2. The amendment filed 04 November 2005 is objected to under 35 U.S.C. 132(a) and 37 CFR 1.121(f), which state that no amendment shall introduce new matter into the disclosure of the invention, because the amendment introduces new matter into the disclosure. In each of Figs. 2A-2D, the new relative sizes of the valve openings and the new positions of the openings are considered new matter.

3. Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

4. The amendment filed 04 November 2005 is objected to under 35 U.S.C. 132(a) and 37 CFR 1.121(f), which state that no amendment shall introduce new matter into the disclosure of the invention, because the amendment introduces new matter into the disclosure. The added material which is not supported by the original disclosure is as follow:

- a. In [7], changing "the valves downstream of the first valve" to "the first valve.
- b. In [8], changing "the first valve" to "valves down stream of the first valve"
- c. In [17], adding "a mix section M of a mixer head 25".
- d. In [17], adding "it should be understood that various mix sections ..."
- e. In [18], the new references to a "mix section" and "mixer section" and "outlet 27".

- f. In [26], changing "36B" to "36C".
- g. In [28], changing "at least" to "at most", "provides" to "does not provide", "is limited" to "is no longer limited".
- h. In [30], changing "valve 32A" to "valves 32B and 32C".
- i. In [31], changing "valve 32A" to "valves 32B and 32C".
- j. In [32], changing "32A" to 32B" and "32B" to 32C".
- k. In [32], adding "at most".

5. Applicant is required to cancel the new matter in the reply to this Office Action.

Allowable Subject Matter

6. Claims 1-3, 5-12, 14, 16-22 and 26-37 are allowed.

Response to Arguments

7. Applicant's arguments regarding the claimed invention are moot, as all pending claims are allowed.

8. Regarding the objections to the entry of new matter into the drawings and specification, applicant argues that claimed invention is enabled and was "described in such a way as to reasonably convey to one skilled in the relevant art the inventors at the time the application was filed had possession of the claimed invention". However, the grounds for objection to drawings and specification are independent of the "claimed invention". Regardless of what is claimed, the 35 U.S.C. 132(a) and 37 CFR 1.121(f) prohibit the entry of new matter into the specification. Applicant mentions the "decision by the BPAI"; however, the BPAI did not decide any 35 U.S.C. 132(a) or 37 CFR

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1.121(f) issue. Furthermore, the new matter had not been entered at the time of the BPAI decision. While applicant attempted to add similar new matter before the BPAI decision, it was refused entry in the 27 May 2003 advisory action.

Conclusion

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.


A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS